

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION

ARNULFO ALVAREZ,

Plaintiff,

v.

LAWRENCE W. HEPPNER
CROSSTIMBERS SERVICES, INC., and
CROSSTIMBERS SERVICES, L.L.C., AND
CORSSTIMBERS HOT SHOT SERVICE, LLC

Defendant.

[illegible]

CIVIL ACTION NO. 5:18-CV-1216
Removed from the 218th Judicial
District Court of Frio County, Texas
Cause No. 18-05-00186CVF

DEFENDANT'S NOTICE OF REMOVAL

Pursuant to 28 U.S.C. §§ 1332 (a) and 1441, Lawrence W. Heppner (“Defendant”) files this Notice of Removal of this civil action filed against him by Arnulfo Alvarez (“Plaintiff”) to the United States District Court for the Western District of Texas, San Antonio Division. In support of this Notice of Removal, Defendants state as follows:

I.

BACKGROUND

1. On May 18, 2018, Plaintiff filed an original Petition (the “Petition”) in the 218th Judicial District Court of Frio County, Texas.
2. Counsel for Defendant accepted service of Citation and Petition on October 29, 2018.
3. Plaintiff asserts claims for negligence against the Defendants and seeks damages for: (1) reasonable medical care and expenses incurred in the past and the future; (2) physical pain and suffering in the past and future; (3) physical impairment in the past and the future; (4) lost wages

and lost earning capacity in the future; (5) mental anguish in the past and the future; and (6) disfigurement.

4. Plaintiff seeks damages in excess of \$1,000,000.00.

5. Plaintiff filed a jury demand in the state court proceeding.

II.

THIS NOTICE OF REMOVAL IS TIMELY FILED IN THE PROPER VENUE

6. This lawsuit is a civil action within the meaning of the Acts of Congress relating to removal of causes.

7. The removal of this action to this Court is timely. The time within which Defendant is required to file this Notice of Removal pursuant to 28 U.S.C. § 1446(b) has not expired since service of process and the Petition was accepted on behalf Defendant on October 29, 2018.

8. The United States District Court for the Western District of Texas, San Antonio Division, is the proper place to file this Notice of Removal under 28 U.S.C. § 1441(a) because it is the federal district court that embraces the place where the original action was filed and is pending.

III.

THIS COURT HAS DIVERSITY JURISDICTION

9. The state court action may be removed to this Court pursuant to 28 U.S.C. §1332 because there is complete diversity of citizenship between Plaintiff and the Defendants and the amount in controversy, exclusive of interest and costs, exceeds \$75,000.00.

Complete Diversity of Citizenship

A. This Court has diversity jurisdiction pursuant to 28 U.S.C. § 1332 (a)(2) because Plaintiff and Defendant have complete diversity of citizenship, and the amount in controversy exceeds \$75,000.00, exclusive of interest and costs. *See* 38 U.S.C. § 1332(a)(2).

B. Plaintiff is a resident of Duval County, Texas, and is therefore a citizen of Texas for diversity purposes.

C. Defendant Lawrence W. Heppner is a resident of Canadian County, Oklahoma.

D. Defendant Crosstimbers Services, Inc. is an Oklahoma Corporation.

E. Defendant Crosstimbers Services, L.L.C. is an Oklahoma Limited Liability Company.

F. Defendant Crosstimbers Hot Shot Service, L.L.C. is an Oklahoma Limited Liability Company.

G. Therefore, complete diversity of citizenship exists between Plaintiff and Defendants.

Amount in Controversy

H. The amount in controversy in this matter exceeds \$75,000.00, exclusive of interest and costs, because Plaintiff alleges in the Petition damages in excess of \$1,000,000.00.

I. Although Defendant denies that Plaintiff is “entitled” to the relief sought or to recover any amount in damages, costs or fees sought and specifically denies that Plaintiff is entitled to relief in the various forms sought, the Plaintiff’s allegations and relief sought place in controversy more than \$75,000.00, exclusive of interest and costs. Therefore, the amount in controversy requirement for diversity jurisdiction in this case is satisfied.

J. Because this case is between a citizens of different states and involves an amount in controversy in excess of the statutory minimum, the elements of diversity jurisdiction are satisfied under 28 U.S.C. § 1332.

IV.

ADDITIONAL PROCEDURAL MATTERS

10. Upon filing this Notice of Removal, Defendant will promptly serve Plaintiff with written notice of such removal and will file a Notice of Removal in the state court in which this case was originally filed.

11. Pursuant to 28 U.S.C. § 1446(a) and Local Rule 81, Defendant has attached the following:

- (i) a copy of all executed process in this case (**Exhibit A**);
- (ii) a copy of a Rule 11 Agreement between the parties wherein service is accepted on behalf of Defendant Heppner (**Exhibit B**);
- (iii) a copy of Plaintiff's Original Petition (**Exhibit C**);
- (iv) a copy of Plaintiff's First Amended Original Petition (**Exhibit D**);
- (v) a copy of all Defendants' Original Answers (**Exhibit E**); and
- (vi) a copy of Plaintiff's Special Exceptions (**Exhibit F**).

WHEREFORE, pursuant to 38 U.S.C. § 1441, Defendant respectfully request that the Court enter such further orders and grant such further relief as may be necessary to secure the removal of the state court action from the 218th Judicial District Court in Frio County, Texas, to the United States District Court for the Western District of Texas, San Antonio Division.

Dated November ____, 2018.

Respectfully submitted,

FORD MURRAY, PLLC

A handwritten signature in blue ink, appearing to read 'W. H. Ford', is positioned above a horizontal line.

WILLIAM H. FORD

State Bar No. 07246700

Email: bill.ford@fordmurray.com

CHRISTOPHER C. STRAWN

State Bar No. 19378800

Email: chris.strawn@fordmurray.com

10001 Reunion Place, Suite 640

San Antonio, Texas 78216

(210) 731-6400 Telephone

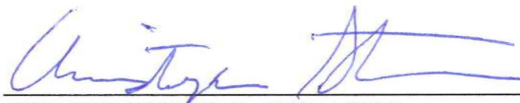
(210) 731-6401 Fax

**Attorneys in Charge for Defendant,
Lawrence W. Heppner**

CERTIFICATE OF SERVICE

I hereby certify that on the 21st day of November, 2018, I electronically filed the foregoing Notice of Removal with the Clerk of the Court using the CM/ECF system and mailed the document by U.S. mail to the non-filing user:

Thomas J. Henry
Wade B. Reese
THE LAW OFFICES OF THOMAS J. HENRY
521 Starr Street
Corpus Christi, Texas 78401
wreese-svc@tjhlaw.com



CHRISTOPHER S. STRAWN
State Bar No. 19378800
Email: chris.strawn@fordmurray.com
FORD MURRAY, PLLC
10001 Reunion Place, Suite 640
San Antonio, Texas 78216
(210) 731-6400 Telephone
(210) 731-6401 Fax